

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition)
of the City of Arcata for Review)
of Order No. 75-117 (NPDES Permit)
No. CA0023817) of the California)
Regional Water Quality Control)
Board, North Coast Region)

Order No. WQ 76- 5

BY THE BOARD:

On May 29, 1975, the California Regional Water Quality Control Board, North Coast Region (Regional Board), adopted Order No. 75-117 (NPDES Permit No. CA0023817), waste discharge requirements for the Humboldt Bay Wastewater Authority.

On July 1, 1975, the City of Arcata (petitioner) filed a petition for review of Order No. 75-117. The petition alleged that the Regional Board improperly adopted Order No. 75-117 without awaiting an Environmental Impact Report (EIR) or considering environmental factors as required by state and federal law.

We have previously held that the California Environmental Quality Act (CEQA) does not require environmental documents as a condition to adoption of waste discharge requirements, except requirements for "new sources" as defined by the Federal Water Pollution Control Act. The term "new source" pertains only

to industrial dischargers and not to municipal dischargers or proposed dischargers such as Humboldt Bay Wastewater Authority. At the same time, we have stated that, "in the absence of compelling considerations to the contrary, the Regional Boards should at least await and consider an EIR for substantial projects which may involve potentially significant environmental effects, some of which may be detrimental, even though the project may, at the same time, involve substantial benefits."^{1/}

The discharge considered in Order No. 75-117 obviously is a discharge which qualifies as a substantial project which may involve potentially significant environmental effects. The Regional Board should have awaited and considered an EIR for the discharge involved prior to adoption of Order No. 75-117 on May 29, 1975, and its failure to do so was in error.

However, the Regional Board subsequently reconsidered Order No. 75-117. As a part of such reconsideration, the Regional Board did receive and consider the EIR for the project involved. After such reconsideration, the Regional Board, on September 25, 1975, adopted Resolution No. 75-7 which reaffirmed Order No. 75-117.

It now appears from the record that in connection with Order No. 75-117, the Regional Board has adequately considered the environmental factors associated with the discharge of waste, including the EIR, in conformity with law. It should be noted that the petitioner did not file a petition for review of Resolution No. 75-7 nor did petitioner file further argument in this matter subsequent to the adoption of Resolution No. 75-7.

1/ See State Board Order No. WQ 75-8.

In view of the above factors, we find that the actions of the Regional Board in ultimate adoption of Order No. 75-117 are appropriate and proper and that this petition should be dismissed.

NOW, THEREFORE, IT IS HEREBY ORDERED that this petition be dismissed.

Dated: March 18, 1976

/s/ W. W. Adams
W. W. Adams, Chairman

/s/ W. Don Maughan
W. Don Maughan, Vice Chairman

/s/ Roy E. Dodson
Roy E. Dodson, Member

/s/ Jean Auer
Jean Auer, Member

